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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,448	01/04/2001	Susan I. Shelso	06530.0275	3427

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EXAMINER

LANDREM, KAMRIN R

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 08/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/753,448

Applicant(s)

SHELSON, SUSAN I.

Examiner

Kamrin R. Landrem

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-28 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,7,8,11-18, 20-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischell et al (USPN 5,743,874).

With respect to Figures 1-4 Fischell et al discloses a delivery system comprising, a catheter (10), an inflatable device (50), a slidable outer tube (20), a self-expanding stent (60), radiopaque marker bands (152,180,182), a fluid port (33), a tapered distal tip (21), a fluid lumen (34), guidewire lumen (43), and stent containment cavity (70).

Fischell et al discloses (col. 3, lines 32-60) methods of use for delivery system comprising of delivering the device, implanting stent, inflating balloon, use of guidewire, providing axial movement between tubular member and outer member, retracting device, inflating balloon, deflating balloon, and withdrawing delivery system from patient.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischell et al in view of Fielder (USPN 6,056,759).

Fischell et al discloses all of the claimed elements of the delivery system except for the radially outward extension of the distal tip. Fielder teaches of a stent delivery system, which comprises a tapered distal tip with a radial outward extension (see Figure 2, part 52) for guiding delivery system into the body. Therefore, in view of the teachings it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the delivery system of Fischell with the radial outward extension of the distal tip of Fielder to provide for easier delivery and maneuverability and to provide a seat against which the outer tube can rest.

Claim 19 is rejected under U.S.C. 103(a) as being unpatentable over Fischell et al in view of Mikus et al (USPN 6,221,081).

Fischell et al discloses all of the claimed elements of the delivery system except for the use of an endoscope for positioning the delivery system. Mikus et al teaches of the use of an endoscope to insert stent delivery systems accurately and conveniently into the urethra. Therefore in view of the teachings it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used an endoscope as disclosed by Mikus et al to accurately insert the delivery system of Fischell.

Allowable Subject Matter

Claims 5 and 6 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamrin R. Landrem whose telephone number is 703-305-8061. The examiner can normally be reached on 8:00-5:00, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3905 for regular communications and 703-308-3905 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Kamrin Landrem
Examiner
AU 3738

KRL
August 12, 2002


CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700